

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

Gilbert Timsit,

Plaintiff,

Case No.: 20-cv-5446

-against-

Ztvi Zev Schwartz, 741 Hancock, LLC, 223 Howard,
LLC, 37 Covert, LLC, BSD Quincy LLC, McKarkein
Investment IDF LLC, McKarkein Capital LLC, and
Berkshire Abstract & Title Agency, LLC,

Defendants.

-----X

**ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINING ORDER**

Upon the annexed Memorandum of Law, together with the affidavit of G. Timsit, (the “G. Timsit Aff.”) and the exhibits annexed thereto, and the declaration of Joshua Levin-Epstein, Esq., (the “Epstein Decl.”) and the exhibits annexed thereto, in Support of the Order to Show Cause of Gilbert Timsit (the “Plaintiff”) against the Defendants¹ in the above-captioned action, and all pleadings and proceedings heretofore had herein, it is hereby ORDERED that:

1. Defendants show cause before this Court, the Honorable Judge Eric R. Komitee presiding, in Courtroom 6G North of the United States District Court for the Eastern District of New York, at the Courthouse located at 225 Cadman Plaza East Brooklyn, New York 11201, on _____, 2020, at _____ a.m./p.m., or as soon thereafter as counsel may be heard, why an order should not be entered, pursuant to Federal Rules of Civil Procedure 64 and 65, N.Y.

¹ Defendant Ztvi “Zev” Schwartz (“Schwartz”), Defendant 741 Hancock, LLC (“Hancock LLC”), Defendant 223 Howard, LLC (“Howard LLC”), Defendant 37 Covert, LLC (“Covert LLC”), Defendant BSP Quincy LLC (“BSP Quincy”), Defendant McKarkein IDF LLC (“McKarkein IDF”), and Defendant McKarkein Capital LLC (“McKarkein Capital”), are collectively referred to herein as the “McKarkein Defendants”) and Defendant Berkshire Abstract & Title Agency, LLC (“Berkshire”) together with the McKarkein Defendants, are collectively referred to herein as the “Defendants”.

Civil Practice Law & Rules §§ 6201 and 6301, and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief;

- (i) attaching the funds in the amount of \$1.3 million Plaintiff wired to the bank account of Berkshire, that Berkshire, Schwartz, and McKarkein IDF have improperly failed to release and refund; or in the alternative
- (ii) enjoining and restraining Defendants from using, distributing, removing, transferring, pledging or otherwise disposing of funds they received from Plaintiff or any assets, including real property directly or indirectly owned by the McKarkein Defendants, to which these funds were applied, until further ordered by this Court; and
- (iii) enjoining and restraining Defendants from knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraph 1(i)-(ii) above.

2. Let service of a copy of this Order to Show Cause, together with the papers upon which it is based, be accomplished by delivering these papers by overnight mail to Defendants, by on or before _____, 2020, and that be deemed good and sufficient service.

3. Opposition papers, if any, from Defendants, must be electronically filed with the Court on or before _____, 2020.

Dated: Brooklyn, New York

_____, 2020

The Honorable Eric R. Komitee
United States District Judge